

REMARKS/ARGUMENTS

Claims 1-25 were pending and examined. The claims have been amended and cancelled as noted above. Reexamination and reconsideration of the claims, as amended, are respectfully requested.

All claims were rejected over the Haertl '597 patent in combination with various secondary references. The Examiner relies on Haertl '597 as teaching an intracanal shield having an acoustically permeable cap which can be positioned entirely within the ear. To that extent, Applicants agree with the Examiner. The cap 12 of Haertl '597 is intended to cover a sound exit nozzle 2 of a hearing aid housing 1, as shown for example in Fig. 1. The cap 13 is intended to prevent fouling of the hearing aid and is made up of a material or has a structure which blocks debris but permits the passage of acoustic waves.

The intracanal shield of the present invention, in contrast, is intended to fully span the cross-section of an ear canal. As now amended, claim 1 recites an intracanal shield which specifically includes a retention ring adapted to conform to the wall of the ear canal so that the shield may be fitted in a self-retaining manner in the ear canal. The cap 12 of Haertl '597 has no such structure. The cap does include a skirt or a flange portion around a central face, but the skirt or flange is intended to fit over the exit port 2 and would therefore not be adapted to conform to the wall of the ear canal cavity. Cap 12 of Haertl would never be able to be fit in a retaining manner in the ear canal.

Applicants recognize that the Examiner relies on Williams to teach an earplug which can be fitted within the ear canal. The Examiner, however, provides no basis on which one skilled in the art would combine the earplug of Williams with the hearing aid cap of Haertl '597. The earplug of Williams is intended in at least some instances to "dampen sound," as taught at column 1, line 15, and would therefore not be expected to be used together with a hearing aid. The plug of Williams certainly does not have a central porous member which would allow the passage of air blowing sounds as required by claim 1. As the cap 12 of Haertl '597 is intended to specifically fit over the exit port 2, it would be contraindicated to combine a plug structure as taught in Williams '015 since they would simply be incompatible.

In an effort to expedite prosecution of the subject application, however, Applicants have amended claim 1 to clarify that this shield comprises both a retention ring and a central porous member. It is the retention ring that is adapted to conform to the wall of the ear canal cavity and the separate central porous member is adapted to permit air circulation and the passage of air-borne sounds while blocking the passage of fluids and solids therethrough. As Haertl has no such retention ring, and the earplug of Williams '015 would be unsuitable for holding a central porous member, it is believed that claim 1 clearly distinguishes the combination of art relied on by the Examiner in rejecting claim 1.

CONCLUSION

In view of the above amendment remarks, Applicants respectfully request that claim 1 and all claims dependent thereon be allowed and that the application be passed to assure it an early date.

If for any reason the Examiner believes that a telephone conference would in any way expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at 650-326-2400.

Respectfully submitted,

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